

**REMARKS**

This is in response to the Office Action dated August 26, 2005. Claims 1-32 are pending.

Claim 28 stands rejected under the doctrine of obviousness-type double patenting. While applicant does not necessarily agree with this rejection, a *terminal disclaimer* has been filed herewith in order to render this rejection moot.

Claims 23 and 32 stand rejected under Section 112, second paragraph. While applicant does not agree with the rejection of claim 23, claims 23 and 32 have been amended herein to address and overcome any potential issue in this respect.

Claim 28 also stands rejected under Section 112, second paragraph. Claim 28 does not require any layer of tin oxide, titanium oxide, or silicon nitride. Thus, the Section 112 rejection of this claim is unclear and should be withdrawn.

Claim 28 stands rejected under 35 U.S.C. Section 102(e) as being allegedly anticipated by each of Hartig (US 2002/0102352) and Neuman (US 2004/0005467). These Section 102(e) rejections are respectfully traversed for at least the following reasons.

Claim 28 requires that “when the coated article is exposed to about 650 degrees C of heat treatment for 12 minutes as a reference, the coated article retains at least 98% of its pre-heat-treatment visible transmission.” The cited art fails to disclose or suggest this.

Hartig and Neuman both fail to disclose or suggest a coated article that retains at least 98% of its pre-heat treatment visible transmission if exposed to about 650 degrees C of heat treatment for 12 minutes. Hartig only discloses heat treatment for about 2 minutes (paragraph [0038]), and Neuman only discloses heat treatment for about 7.7 minutes (paragraph [0065]). There is no disclosure or suggestion in Hartig or Neuman as to what would happen if the coated articles were exposed to the much longer heat treatment of 12 minutes called for in claim 28.

Those of skill in the art know that such longer heat treatments typically result in a loss of visible transmission – the opposite of what claim 28 requires. There is clearly nothing in the cited art which discloses or suggests a coated article that retains at least 98% of its pre-heat treatment visible transmission if exposed to about 650 degrees C of heat treatment for 12 minutes.

Claims 1-27 and 31-32 stand rejected under Section 103(a) as being allegedly unpatentable over Lingle in view of Neuman and Ebisawa. This Section 103(a) rejection is respectfully traversed for at least the following reason. Neuman is commonly owned with the instant application, and was commonly owned at the time of the invention. Thus, Neuman cannot be used in a Section 103 rejection. See 35 U.S.C. Section 103(c). Accordingly, all Section 103(a) rejections in the Office Action should be withdrawn.

All claims are in condition for allowance. If any minor matter remains to be resolved, the Examiner is invited to telephone the undersigned with regard to the same.

Respectfully submitted,

**NIXON & VANDERHYTE P.C.**

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